

## **REMARKS**

The Office Action of May 2, 2006 (hereinafter "Office Action") has been carefully reviewed. Claims 1-27 and 30-33 are pending in this patent application. By this amendment, claims 1, 7, 12, 17, 22, and 30 have been amended and claims 34-35 have been added. Please note that Claims 28 and 29 have been withdrawn.

The present amendment is being filed under a Certificate of Mailing as indicated.

### **Election/Restriction**

As noted in the Detailed Action, Applicants elect claims 1-27 and 30-33. In view of the Examiner's earlier restriction requirement, applicants retain the right to present claims 28 and 29 in a divisional application.

### **Double Patenting**

Claims 1-27 and 30-33 were provisionally rejected under on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 38,39, 46 and 51 of co-pending Application No. 10/100,387 (hereinafter '387) in view of US Patent No. 6,030,389) to Wagner et al.(hereinafter Wagner).

Discussion Regarding Patentability of Amended Claim 1 and claims 2-6

dependent thereon

*Currently amended Claim 1*

Claim 1, as currently amended, recites the following limitations:

a head attachment component including a distal portion sized for clearance passage through the passageway and into the bone and an opposed proximate portion sized to urge said bushing against the internal wall of said plate to form a friction lock between said bushing and said plate in a selected polyaxial position, said head attachment component being positionable in an orientation extending divergently from said plate; and a body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion sized to cooperate with said plate, at least one of the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery

The fasteners in '387 include threads for securing the plate to bone.

Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither '387 nor Wagner, either individually or in combination, teach or suggest the use of "at least one of the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery" as now claimed in claim 1.

The rejection to claim 1 as being unpatentable over '387 in view of Wagner is thereby believed to be overcome.

Claims 2-6 are depend on claim 1 and are thus believed to be in allowable form.

The rejection of claims 1-6 under on the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner thereby is believed to be overcome and the removal of the rejection to

claims 1-6 under the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner is hereby requested.

Discussion Regarding Patentability of Amended Claim 7 and claims 8-11

dependent thereon

*Currently amended Claim 7*

Claim 7, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component including a stem portion for passage through the second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery.

The fasteners in '387 include threads for securing the plate to bone.

Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither '387 nor Wagner, either individually or in combination, teach or suggest the use of "at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery" as now claimed in claim 7.

The rejection to claim 7 as being unpatentable over '387 in view of Wagner is thereby believed to be overcome.

Claims 8-11 are dependent on claim 7 and are thus believed to be in allowable form.

The rejection of claims 7-11 under on the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner thereby is believed to be overcome and the removal of the rejection to

claims 7-11 under the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner is hereby requested.

Discussion Regarding Patentability of Amended Claim 12 and claims 13-16 dependent thereon

*Currently amended Claim 12*

Claim 12, as currently amended, recites the following limitations:

a first rigid body attachment component including a stem portion for clearance passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a second rigid body attachment component including a stem portion for threadable engagement with the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate, at least one of the stem portion of said first rigid body attachment component and the stem portion of said second rigid body attachment having a smooth periphery.

The fasteners in '387 include threads for securing the plate to bone.

Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither '387 nor Wagner, either individually or in combination, teach or suggest the use of "at least one of the stem portion of said first rigid body attachment component and the stem portion of said second rigid body attachment having a smooth periphery" as now claimed in claim 12.

The rejection to claim 12 as being unpatentable over '387 in view of Wagner is thereby believed to be overcome.

Claims 13-16 are dependent on claim 12 and are thus believed to be in allowable form.

The rejection of claims 12-16 under on the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of

Wagner thereby is believed to be overcome and the removal of the rejection to claims 12-16 under the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner is hereby requested.

Discussion Regarding Patentability of Amended Claim 17 and claims 18-21 dependent thereon

*Currently amended Claim 17*

Claim 17, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment being unthreaded.

The fasteners in '387 include threads for securing the plate to bone.

Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither '387 nor Wagner, either individually or in combination, teach or suggest the use of "at least one of the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery" as now claimed in claim 17.

The rejection to claim 17 as being unpatentable over '387 in view of Wagner is thereby believed to be overcome.

Claims 18-21 are depend on claim 17 and are thus believed to be in allowable form.

The rejection of claims 17-21 under on the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner thereby is believed to be overcome and the removal of the rejection to claims 17-21 under the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner is hereby requested.

Discussion Regarding Patentability of Amended Claim 22 and claims 23-27 dependent thereon

*Currently amended Claim 22*

Claim 22, as currently amended, recites the following limitations:

a first plate movable body attachment component including a stem portion for passage through the first plate first body hole and into the bone and an opposed cap portion adapted to movably cooperate with said first plate; a second plate for cooperation with the second long bone, the second plate including a second plate head portion and a second plate body portion, the second plate body portion having an internal wall defining a second plate first body hole and a spaced apart second plate second body hole therethrough; a second plate rigid body attachment component including a stem portion for passage through the second plate first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said second plate; and a second plate movable body attachment component including a stem portion for passage through the second plate second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said second plate, at least one of the stem portion of said first plate rigid body attachment component, the stem portion of said second plate rigid body attachment, the stem portion of said first plate moveable body attachment component and the stem portion of said second plate moveable body attachment being unthreaded.

The fasteners in '387 include threads for securing the plate to bone.

Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither '387 nor Wagner, either individually or in combination, teach or suggest the use of "at least one of the stem portion of said first plate rigid body attachment component, the stem portion of said second plate rigid body

attachment, the stem portion of said first plate moveable body attachment component and the stem portion of said second plate moveable body attachment being unthreaded" as now claimed in claim 22.

The rejection to claim 22 as being unpatentable over '387 in view Wagner is thereby believed to be overcome.

Claims 23-27 are dependent on claim 22 and are thus believed to be in allowable form.

The rejection of claims 22-27 under on the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner thereby is believed to be overcome and the removal of the rejection to claims 22-27 under the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner is hereby requested.

Discussion Regarding Patentability of Amended Claim 30 and claims 31-33 dependent thereon

*Currently amended Claim 30*

Claim 30, as currently amended, recites the following limitations:

an attachment component including a distal portion sized for passage through at least one of the head hole and the body hole and into the bone and an opposed proximate portion sized to rigidly secure to the internal wall of one of the head hole and the body hole, the distal portion being generally cylindrical and having a smooth periphery, said attachment component comprising a pin.

The fasteners in '387 include threads for securing the plate to bone. Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither '387 nor Wagner, either individually or in combination, teach or suggest the use of "an attachment component including a distal portion sized for passage through at least one of the head hole and the body hole and into the bone and an opposed proximate portion sized to rigidly secure to the internal wall of one of the head hole and the body hole, the distal portion being generally cylindrical and having a smooth periphery, said attachment component comprising a pin" as now claimed in claim 30.

The rejection to claim 30 as being unpatentable over '387 in view Wagner is thereby believed to be overcome.

Claims 31-33 are depend on claim 30 and are thus believed to be in allowable form.

The rejection of claims 30-33 under on the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner thereby is believed to be overcome and the removal of the rejection to claims 30-33 under the grounds of non-statutory obviousness-type double patenting as being unpatentable '387 in view of Wagner is hereby requested.

### **Claim Rejections – 35 USC § 102**

#### **First 35 U.S.C. § 102 Rejection – Claims 1-21 and 30-33 to Bono**

Claims 1-27 and 30-33 were rejected under 35 U.S.C. § 102 as being anticipated by US Patent No. 5,954,722 to Bono (hereinafter Bono).



Discussion Regarding Patentability of Amended Claim 1 and claims 2-6

dependent thereon

*Currently amended Claim 1*

Claim 1, as currently amended, recites the following limitations:

a head attachment component including a distal portion sized for clearance passage through the passageway and into the bone and an opposed proximate portion sized to urge said bushing against the internal wall of said plate to form a friction lock between said bushing and said plate in a selected polyaxial position, said head attachment component being positionable in an orientation extending divergently from said plate; and a body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion sized to cooperate with said plate, at least one of the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery

The bone screws 18 in Bono include threads for securing the plate 12 to bone.

Bono does not disclose the use of “at least one of the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery” as now claimed in claim 1.

The rejection to claim 1 as being anticipated by Bono is thereby believed to be overcome.

Claims 2-6 are depend on claim 1 and are thus believed to be in allowable form.

The rejection of claims 1-6 as being as being anticipated by Bono is believed to be overcome and the removal of the rejection to claims 1-6 as being anticipated by Bono is hereby requested.

Discussion Regarding Patentability of Amended Claim 7 and claims 8-11

dependent thereon

*Currently amended Claim 7*

Claim 7, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component including a stem portion for passage through the second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery.

The bone screws 18 in Bono include threads for securing the plate 12 to bone.

Bono does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 7.

The rejection to claim 7 as being anticipated by Bono is thereby believed to be overcome.

Claims 8-11 are depend on claim 7 and are thus believed to be in allowable form.

The rejection of claims 7-11 as being as being anticipated by Bono is believed to be overcome and the removal of the rejection to claims 7-11 as being anticipated by Bono is hereby requested.

Discussion Regarding Patentability of Amended Claim 12 and claims 13-16 dependent thereon

*Currently amended Claim 12*

Claim 12, as currently amended, recites the following limitations:

a first rigid body attachment component including a stem portion for clearance passage through the body hole and into the bone and an opposed cap portion

adapted to rigidly cooperate with said plate; and a second rigid body attachment component including a stem portion for threadable engagement with the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate, at least one of the stem portion of said first rigid body attachment component and the stem portion of said second rigid body attachment having a smooth periphery.

The bone screws 18 in Bono include threads for securing the plate 12 to bone.

Bono does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 12.

The rejection to claim 12 as being anticipated by Bono is thereby believed to be overcome.

Claims 13-16 are depend on claim 12 and are thus believed to be in allowable form.

The rejection of claims 12-16 as being as being anticipated by Bono is believed to be overcome and the removal of the rejection to claims 12-16 as being anticipated by Bono is hereby requested.

#### Discussion Regarding Patentability of Amended Claim 17 and claims 18-21 dependent thereon

##### *Currently amended Claim 17*

Claim 17, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment being unthreaded.

The bone screws 18 in Bono include threads for securing the plate 12 to bone.

Bono does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 17.

The rejection to claim 17 as being anticipated by Bono is thereby believed to be overcome.

Claims 18-21 are depend on claim 17 and are thus believed to be in allowable form.

The rejection of claims 17-21 as being as being anticipated by Bono is believed to be overcome and the removal of the rejection to claims 17-21 as being anticipated by Bono is hereby requested.

Discussion Regarding Patentability of Amended Claim 22 and claims 23-27 dependent thereon

*Currently amended Claim 22*

Claim 22, as currently amended, recites the following limitations:

a first plate movable body attachment component including a stem portion for passage through the first plate first body hole and into the bone and an opposed cap portion adapted to movably cooperate with said first plate; a second plate for cooperation with the second long bone, the second plate including a second plate head portion and a second plate body portion, the second plate body portion having an internal wall defining a second plate first body hole and a spaced apart second plate second body hole therethrough; a second plate rigid body attachment component including a stem portion for passage through the second plate first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said second plate; and a second plate movable body attachment component including a stem portion for passage through the second plate second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said second plate, at least one of the stem portion of said first plate rigid body attachment component, the stem portion of said second plate rigid body attachment, the stem portion of said first plate moveable body

attachment component and the stem portion of said second plate moveable body attachment being unthreaded.

The bone screws 18 in Bono include threads for securing the plate 12 to bone.

Bono does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 22.

The rejection to claim 22 as being anticipated by Bono is thereby believed to be overcome.

Claims 23-27 are depend on claim 22 and are thus believed to be in allowable form.

The rejection of claims 22-27 as being as being anticipated by Bono is believed to be overcome and the removal of the rejection to claims 22-27 as being anticipated by Bono is hereby requested.

Discussion Regarding Patentability of Amended Claim 30 and claims 31-33 dependent thereon

*Currently amended Claim 30*

Claim 30, as currently amended, recites the following limitations:

an attachment component including a distal portion sized for passage through at least one of the head hole and the body hole and into the bone and an opposed proximate portion sized to rigidly secure to the internal wall of one of the head hole and the body hole, the distal portion being generally cylindrical and having a smooth periphery, said attachment component comprising a pin.

The bone screws 18 in Bono include threads for securing the plate 12 to bone.

Bono does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 30.

The rejection to claim 30 as being anticipated by Bono is thereby believed to be overcome.

Claims 31-33 are depend on claim 30 and are thus believed to be in allowable form.

The rejection of claims 30-33 as being as being anticipated by Bono is believed to be overcome and the removal of the rejection to claims 30- 33 as being anticipated by Bono is hereby requested.

Second 35 U.S.C. § 102 Rejection – Claims 7-9, 11-15, 17-19, 21, 22-24, 26-27 and 30-33 to Weaver

Claims 7-9, 11-15, 17-19, 21, 22-24, 26-27 and 30-33 were rejected under 35 U.S.C. § 102 as being anticipated by PCT Publication No. WO 01/19267 to Weaver et al. (hereinafter Weaver).

Discussion Regarding Patentability of Amended Claim 7 and claims 8-9 and 11 dependent thereon

*Currently amended Claim 7*

Claim 7, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component

including a stem portion for passage through the second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone.

Weaver does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 7.

The rejection to claim 7 as being anticipated by Weaver is thereby believed to be overcome.

Claims 8-9 and 11 are dependent on claim 7 and are thus believed to be in allowable form.

The rejection of claims 7-9 and 11 as being anticipated by Weaver is believed to be overcome and the removal of the rejection to claims 7-9 and 11 as being anticipated by Weaver is hereby requested.

#### Discussion Regarding Patentability of Amended Claim 12 and claims 13-15 dependent thereon

##### *Currently amended Claim 12*

Claim 12, as currently amended, recites the following limitations:

a first rigid body attachment component including a stem portion for clearance passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a second rigid body attachment component including a stem portion for threadable engagement with the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate, at least one of the stem portion of said first rigid body attachment component and the stem portion of said second rigid body attachment having a smooth periphery.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone.

Weaver does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 12.

The rejection to claim 12 as being anticipated by Weaver is thereby believed to be overcome.

Claims 13-15 are depend on claim 12 and are thus believed to be in allowable form.

The rejection of claims 12-15 as being as being anticipated by Weaver is believed to be overcome and the removal of the rejection to claims 12-15 as being anticipated by Weaver is hereby requested.

Discussion Regarding Patentability of Amended Claim 17 and claims 18-19 and 21 dependent thereon

*Currently amended Claim 17*

Claim 17, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment being unthreaded.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone.



Weaver does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 17.

The rejection to claim 17 as being anticipated by Bono is thereby believed to be overcome.

Claims 18-19 and 21 are depend on claim 17 and are thus believed to be in allowable form.

The rejection of claims 17-19 and 21 as being as being anticipated by Weaver is believed to be overcome and the removal of the rejection to claims 17-19 and 21 as being anticipated by Weaver is hereby requested.

Discussion Regarding Patentability of Amended Claim 22 and claims 23-24 and 26-27 dependent thereon

*Currently amended Claim 22*

Claim 22, as currently amended, recites the following limitations:

a first plate movable body attachment component including a stem portion for passage through the first plate first body hole and into the bone and an opposed cap portion adapted to movably cooperate with said first plate; a second plate for cooperation with the second long bone, the second plate including a second plate head portion and a second plate body portion, the second plate body portion having an internal wall defining a second plate first body hole and a spaced apart second plate second body hole therethrough; a second plate rigid body attachment component including a stem portion for passage through the second plate first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said second plate; and a second plate movable body attachment component including a stem portion for passage through the second plate second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said second plate, at least one of the stem portion of said first plate rigid body attachment component, the stem portion of said second plate rigid body attachment, the stem portion of said first plate moveable body attachment component and the stem portion of said second plate moveable body attachment being unthreaded.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone.

Weaver does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 22.

The rejection to claim 22 as being anticipated by Weaver is thereby believed to be overcome.

Claims 23-24 and 26-27 are depend on claim 22 and are thus believed to be in allowable form.

The rejection of claims 22-24 and 26-27 as being as being anticipated by Weaver is believed to be overcome and the removal of the rejection to claims 22-24 and 26-27 as being anticipated by Weaver is hereby requested.

Discussion Regarding Patentability of Amended Claim 30 and claims 31-33 dependent thereon

*Currently amended Claim 30*

Claim 30, as currently amended, recites the following limitations:

an attachment component including a distal portion sized for passage through at least one of the head hole and the body hole and into the bone and an opposed proximate portion sized to rigidly secure to the internal wall of one of the head hole and the body hole, the distal portion being generally cylindrical and having a smooth periphery, said attachment component comprising a pin.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone.

Weaver does not disclose the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 30.

The rejection to claim 30 as being anticipated by Weaver is thereby believed to be overcome.

Claims 31-33 are dependent on claim 30 and are thus believed to be in allowable form.

The rejection of claims 30-33 as being as being anticipated by Weaver is believed to be overcome and the removal of the rejection to claims 30- 33 as being anticipated by Weaver is hereby requested.

### **Claim Rejections – 35 USC § 103**

Claims 10, 16, 20 and 25 were rejected under 35 USC §103(a) as being unpatentable over PCT Patent Publication WO 01/19267 to Weaver et al. in view of U.S. Patent 6,030,389 to Wagner et al. Arguments are provided below in response to this rejection. Reconsideration of the rejection to claims 10, 16, 20 and 25, in light of the arguments provided below, is respectfully requested.

#### **Discussion Regarding Patentability of claim 10 dependent on amended Claim 7**

##### ***Currently amended Claim 7***

Claim 7, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component

including a stem portion for passage through the second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone. Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither Weaver nor Wagner, either individually or in combination, teach or suggest the use of “at least one of the stem portion of said rigid body attachment component and the stem portion of said movable body attachment having a smooth periphery” as now claimed in claim 7.

The rejection to claim 10, which is dependent on claim 7, as being unpatentable over Weaver in view of Wagner is thereby believed to be overcome.

The rejection of claim 10 under 35 USC §103(a) as being unpatentable over Weaver in view of Wagner thereby is believed to be overcome and the removal of the rejection to claim 10 under 35 USC §103(a) as being unpatentable Weaver in view of Wagner is hereby requested.

#### Discussion Regarding Patentability of Claim 16 dependent on Amended Claim

#### 12

#### *Currently amended Claim 12*

Claim 12, as currently amended, recites the following limitations:

a first rigid body attachment component including a stem portion for clearance passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a second rigid body attachment component including a stem portion for threadable engagement with the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with

said plate, at least one of the stem portion of said first rigid body attachment component and the stem portion of said second rigid body attachment having a smooth periphery.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone. Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither Weaver nor Wagner, either individually or in combination, teach or suggest the use of “at least one of the stem portion of said first rigid body attachment component and the stem portion of said second rigid body attachment having a smooth periphery” as now claimed in claim 12.

The rejection to claim 16, which is dependent on claim 12, as being unpatentable over Weaver in view of Wagner is thereby believed to be overcome.

The rejection of claim 16 under 35 USC §103(a) as being unpatentable over Weaver in view of Wagner thereby is believed to be overcome and the removal of the rejection to claim 16 under 35 USC §103(a) as being unpatentable Weaver in view of Wagner is hereby requested.

#### Discussion Regarding Patentability of Claim 20 dependent on Amended Claim

17

#### *Currently amended Claim 17*

Claim 17, as currently amended, recites the following limitations:

a rigid body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said plate; and a movable body attachment component including a stem portion for passage through the body hole and into the bone and an opposed cap portion adapted to movably cooperate with said plate, at least one of

the stem portion of said rigid body attachment component and the stem portion of said movable body attachment being unthreaded.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone. Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither Weaver nor Wagner, either individually or in combination, teach or suggest the use of “at least one of the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery” as now claimed in claim 17.

The rejection to claim 20, which is dependent on claim 17, as being unpatentable over Weaver in view of Wagner is thereby believed to be overcome.

The rejection of claim 20 under 35 USC §103(a) as being unpatentable over Weaver in view of Wagner thereby is believed to be overcome and the removal of the rejection to claim 20 under 35 USC §103(a) as being unpatentable Weaver in view of Wagner is hereby requested.

#### Discussion Regarding Patentability of Claim 25 dependent on Amended Claim

#### 22

##### *Currently amended Claim 22*

Claim 22, as currently amended, recites the following limitations:

a first plate movable body attachment component including a stem portion for passage through the first plate first body hole and into the bone and an opposed cap portion adapted to movably cooperate with said first plate; a second plate for cooperation with the second long bone, the second plate including a second plate head portion and a second plate body portion, the second plate body portion having an internal wall defining a second plate first body hole and a spaced apart second plate second body hole therethrough; a second plate rigid body

attachment component including a stem portion for passage through the second plate first body hole and into the bone and an opposed cap portion adapted to rigidly cooperate with said second plate; and a second plate movable body attachment component including a stem portion for passage through the second plate second body hole and into the bone and an opposed cap portion adapted to movably cooperate with said second plate, at least one of the stem portion of said first plate rigid body attachment component, the stem portion of said second plate rigid body attachment, the stem portion of said first plate moveable body attachment component and the stem portion of said second plate moveable body attachment being unthreaded.

The bone screws 20 in Weaver include threads for securing the plate 30 to bone. Similarly, the bone screws 20 in Wagner include threads for securing the plate 10 to bone.

Neither Weaver nor Wagner, either individually or in combination, teach or suggest the use of “at least one of the stem portion of said first plate rigid body attachment component, the stem portion of said second plate rigid body attachment, the stem portion of said first plate moveable body attachment component and the stem portion of said second plate moveable body attachment being unthreaded” as now claimed in claim 22.

The rejection to claim 25, which is dependent on claim 22, as being unpatentable over Weaver in view of Wagner is thereby believed to be overcome.

The rejection of claim 25 under 35 USC §103(a) as being unpatentable over Weaver in view of Wagner thereby is believed to be overcome and the removal of the rejection to claim 25 under 35 USC §103(a) as being unpatentable Weaver in view of Wagner is hereby requested.

## **Discussion Regarding Patentability of New Claims 58-62**

New claim 34 has been added. This claim differs from the applied prior art at least in that it includes both the distal portion of said head attachment component and the stem portion of said body attachment having a smooth periphery. Please refer to FIGS. 20 and 22 and the description the specification for support for this claim.

New claim 35 has been added. This claim differs from the applied prior art at least in that it includes both the stem portion of said rigid body attachment component and the stem portion of said movable body attachment being unthreaded. Please refer to FIGS. 20 and 22 and the description the specification for support for this claim.

### **Conclusion**

For the above-described reasons it is respectfully submitted that the rejections to the claims have been overcome and that claims 1-27 and 30-33, as well as new claims 34-35 are currently in condition for allowance. A prompt and favorable action on the merits is respectfully requested.

Respectfully submitted,

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